CP 1004 (3)

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W. P. NO. 3907 / 2004

Petitioner : Goverdhan Ram Kuldip S/o Late Shri Jaipal Ram Kuldip, Aged about 32 years, R/o Village Mender, Post Bhilwan, Tahsil : Kunkuri, Dist : Jashpur-(C.G.)

Versus

Respondents :1. State of Chhattisgarh Through The Secretary Panchayat Department of Gram Swaraj, D.K.S. Bhawan, Raipur, Dist : Raipur-(C.G.)

2. The Collector, Panchayat Branch, Jashpur-(C.G.)

3. The Chief Executive Officer, Jila Panchayat Jashpur,

4. The Chief Executive Officer, Janpad Panchayat Farsabahar, Tahsil Kunkuri, Dist : Jashpur-(C.G.)

5. The Sub Divisional Officer, Revenue Kunkuri, Dist : Jashpur-(C.G.)

6. Sarpanch, Gram Panchayat Bhelwan, Janpad Panchayat Farsabahar, Tahsil Kunkuri, Dist : Jashpur-(C.G.)

7. Joseph Toppo (Gram Sahayak) Gram Panchayat Ganjhadih, Tahsil Kunkuri, Dist : Jashpur-(C.G.)

P.R. No. 3905/04 Presented by Shri Ashok Patil dated 15-10-04

Clerk to A. G. Bilaspur 15.10.04

WRIT PETITION U/A 226 / 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF THE WRITS, DIRECTIONS OR ORDERS IN THE NATURE OF MANDAMUS, PROHIBITION, CERTERIORAI & OR ORDER(S) AND / OR DIRECTION(S) IN THE NATURE OF WRITS.

1. Particulars of the Petitioner :

As per cause title.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(121)

आदेश पत्रक

मामला क्रमांक WP 3907/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

7-2-2006

Shri Ashok Patil, counsel for the petitioner.

Shri N.K. Agrawal, Dy. Advocate General for the State/ respondents No. 1, 2, 4 & 5.

Shri Qamrul Aziz, counsel for respondent No.7.

Heard.

By this petition under Article 226/227 of the Constitution of India, the petitioner challenges the order dated 19-6-2004 (Annexure-P/1) passed by respondent No.4/Chief Executive Officer.

Learned counsel for the petitioner submits that the petitioner was appointed as Panchayat Karmi on 30-10-1995 (Annexure-P/2). He further submits that the petitioner was also working as Panchayat Secretary. He also submits that vide order dated 4-6-2004 (Anneuxre-P/3) the petitioner has been removed from the post of Panchayat Secretary. Learned counsel submits that vide order dated 11-6-2004 (Annexure-P/4) the Chief Executive Officer appointed one Shri B. Ekka as Officer-In-charge and the said Officer-In-charge held the meeting. Shri Patil, learned counsel appearing for the petitioner also submits that Annexure-P/5 dated 30-6-2004 was written by Sarpanch in

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(122)

आदेश पत्रक

WP 3907/04

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

favour of the petitioner. He also submits that the order has been passed without conducting any enquiry.

Return has been filed alongwith documents. Learned counsel for the respondent submits that the petitioner was never appointed as Panchayat Secretary and the petitioner was appointed as a Panchayat Karmi in accordance with Panchayat Karmi Yojna 1995. Copy of the scheme is filed as Annexure-R/1. He further submits that enquiry was conducted by the Panchayat Inspector and submitted the report on 6-3-2004 (Annexure-R/2). He also submits that the resolution for removal of the petitioner was passed by the Gram Panchayat, Bhelwa and the same was approved by the Gram Sabha on 16-4-2004 (Annexure-P/3). The contention of the respondents is that the petitioner was given due opportunity.

Learned counsel for the petitioner on the other hand submits that there is non-compliance of provisions of Rule 7 of Panchayat Service (Discipline and Appeal) Rules 1999 which are applicable in view of the judgment of this Court rendered in the case of *Prakash Chandra Patel vs. State of Chhattisgarh & Others (W.P.No.594/2003)*. It is stated that according to the Rules no charges were framed nor the charge sheet and the statements of

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(123)

आदेश पत्रक

मामला क्रमांक WP 3907/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

allegations were served on the petitioner nor the other procedure prescribed in sub rules (6), (7), (8), (9) & (10) was followed. He also submits that the proper opportunity was not given to the petitioner to cross-examine the witnesses.

In para 14 of the judgment rendered in the case of *Prakash Chandra Patel* (supra), this Court has held that enquiry has to be conducted in accordance with Rule 7 of the Rules 1999.

Learned counsel for the State is not in a position to dispute the aforesaid facts.

Having considered the facts and circumstances of the case and material on record, the order dated 19-6-2004 (Annexure-P/1) and the order dated 4-6-2004 (Anneuxre-P/3) are liable to be and are set aside. However, the respondents are at liberty to proceed in the matter in accordance with law.

With the aforesaid observations, this petition stands disposed of.

Sd/-
Fakhruddin
Judge

Gowri

10.12.04 9.12.04

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